

Remarks

Reconsideration and withdrawal of the rejections of the claims, in view of the amendments and remarks herein, is respectfully requested. Claims 5-6, 20-22 and 26 are amended, claim 28 is canceled, and claim 29 is added. The amendments are intended to advance the application and are not intended to concede to the correctness of the Examiner's position or to prejudice the prosecution of the claims prior to amendment, which claims are present in a continuation of the above-identified application. Claims 5-6, 20-22, 26-27, and 29 are pending.

Applicant respectfully requests that a copy of Form 1449, listing all references that were submitted with the Supplemental Information Disclosure Statement filed on April 6, 2004, marked as being considered and initialed by the Examiner, be returned with the next official communication.

Applicant submitted a Supplement Information Disclosure Statement and Form 1449 on April 18, 2001. A copy of Form 1449 filed on April 18, 2001, which was partially initialed by the Examiner, was returned to Applicant's Representatives with the final Office Action dated May 20, 2004. Applicant respectfully requests that initialed copies of all pages of that Form 1449 be returned to Applicant's Representatives to indicate that cited references have been considered by the Examiner.

The cancellation of claim 28 moots the § 112(2) rejection of that claim.

The Examiner rejected claims 5-6, 22 and 26-27 under § 112(1) for the recitation of "biologically active fragments" (an enablement rejection). Claims 5-6, 22 and 26-28 were also rejected under § 112(1) for the recitation of a "fragment" with particular activities (a written description rejection). The amendment to claims 5-6 and 26 to delete the phrase which included "biologically active fragment" obviates these rejections.

Accordingly, withdrawal of the §112 rejections is respectfully requested.

AMENDMENT AND RESPONSE UNDER 37 CFR §1.116

Serial Number: 09/837138

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Title: METHODS TO ALTER LEVELS OF A DNA REPAIR PROTEIN

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Dkt: 800.019US3

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((612) 373-6959) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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By their Representatives,

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Date July 7, 2004

By Janet E. Embretson
Janet E. Embretson
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7th day of July, 2004.

Name

Dawn M. Poole

Signature

Dawn M. Poole